IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 7068 of 2001 (M/S)

Dalit Kshetihar Mazdoor Samiti
Mera Bara Harana Sittarganj District
Udham Singh Nagar through
Adhyaksa Sri Ram Lal s/o Sri Mohan Lal
Ward No. 21, Sittraganj,
Distt. Udham Singh Nagar …… Petitioner

Versus

1. State of Uttaranchal through its Secretary (Revenue). Dehradun.

2. The Superintendent,
Sampurnanand Jail Camp, Sittarganj,
District Udham Singh Nagar ……. Respondents

……

Mr. Jagdish Bisht learned counsel for the petitioner.
Mr. N.C. Gupta, Standing Counsel for the State.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. M.M. Ghildiyal, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Jagdish Bisht, learned counsel for the petitioner.

Mr. N.C. Gupta, Standing Counsel, learned counsel for the respondents.

They are heard.

2. Petitioner Society "Dalit Kshetihar Mazdoor Samiti, Mera Bara Harana Sittarganj District Udham Singh Nagar" filed this writ petition in the year 2001 for the following reliefs:

> " WHEREFORE it is most respectfully prayed that the Government of Uttaranchal may be directed to decide the representation of the above uprooted families mentioned in Annexure-6 to the writ petition within a reasonable time for their resettlement by means of an appropriate writ of mandamus or any other relief may be given to them under the circumstances of the case."

3. During the pendency of the petition, after the passing of the order dated 06.11.2004 on the petitioner's representation, the writ petition was amended by including the following relief in the prayer clause:

"Issue a writ order or direction in the nature of certiorari quashing the order dated 6.11.2004 annexed as Annexure No. 7 to the petition."

4. The petitioner Samiti is seeking rehabilitation of the sixty families alleged to have been dispossessed in the year 1981 by the Staff of Sampurnand Jail, Sitarganj. The representation made by the petitioner in that behalf stands rejected vide order dated 06.11.2004 (Annexure 7).

5. From the impugned order dated 06.11.2004, we gather that in the revenue papers the ownership and possession of the land in question is recorded in the name of Sampurnand Jail Camp. The order further mentions that the alleged possession of those sixty families is not recorded in the revenue records.

6. It is not the petitioner's case that the land in question was ever allotted to these sixty families by any authority. The petitioner's entire case is based on the alleged possession of those sixty families on the disputed land for a considerable period, which fact is seriously disputed by the respondents.

7. As it is not permissible in the proceedings under Article 226 of the Constitution of India to decide disputed question of fact, which would necessarily require leading of evidence by the parties in support of their claim, we are of the opinion that it would be appropriate for the petitioner and those sixty families to approach the Civil Court for the redressal of their grievances.

8. With the above observation, the writ petition is disposed of.

(M.M. Ghildiyal, J.) **(Rajeev Gupta, C.J.)**
12.05.2006 **12.05.2006**

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